

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 04-14767  
\_\_\_\_\_

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
JUNE 14, 2005  
THOMAS K. KAHN  
CLERK

D. C. Docket No. 99-00600 CV-JAL

PHOENICIAN IMPORTS, INC.,  
d.b.a. Azhar's Oriental Rugs,

Plaintiff-Counter-  
Defendant-Appellee,

versus

FEDERAL EXPRESS CORP.,

Defendant-Counter-  
Claimant-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

(June 14, 2005)

Before DUBINA and WILSON, Circuit Judges, and COOGLER\*, District Judge.

\_\_\_\_\_  
\*Honorable L. Scott Coogler, United States District Judge for the Northern District of Alabama,  
sitting by designation.

PER CURIAM:

This is an appeal from a judgment entered on a jury verdict against Federal Express Corporation in an action under the Warsaw Convention in which Phoenician Imports, Inc., claimed damages resulting from Federal Express's alleged delay in delivery of goods.

The issues presented for appellate review are (1) whether the district court erred in denying FedEx's motion in limine to exclude or rebut Phoenician's damages expert thereby requiring a new trial; (2) whether a new trial is required because the district court admitted testimony of an oral agreement; (3) whether Phoenician presented sufficient evidence that it gave FedEx notice of its claim under Article 26 of the Warsaw Convention such that the district court properly denied FedEx's Motion for Judgment as a Matter of Law or New Trial; and (4) if a new trial is not required, whether the district court properly awarded prejudgment interest and whether the judgment should be reduced to the liability limit permitted by the Warsaw Convention.

This court reviews evidentiary rulings for an abuse of discretion and will reverse the district court where the ruling resulted in a "substantial prejudicial effect." *Cortes v. American Airlines, Inc.*, 177 F.3d 1272, 1305 (11th Cir. 1999).

Moreover, this court reviews the district court's disposition of a motion for new trial for an abuse of discretion. *Davis v. Wal-mart Stores, Inc.*, 967 F.2d 1563, 1566 (11th Cir. 1992). This court reviews *de novo* a district court's calculation of prejudgment interest where such involves construction of state law. *See Alphamed, Inc. v. B. Braun Medical, Inc.*, 367 F.3d 1280, 1285 (11th Cir. 2004).

After reviewing the record, reading the parties' briefs, and having the benefit of oral argument, we conclude there is no merit to the arguments presented by FedEx and, accordingly, we affirm the district court's judgment entered on the jury's verdict.

**AFFIRMED.**